

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MONADNOCK CONSTRUCTION, INC.,
Plaintiff,

Case No.: 16 CIV 00420 (JBW)(VMS)
ECF Case

-against-

WESTCHESTER FIRE INSURANCE
COMPANY,
Defendant.

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WESTCHESTER FIRE INSURANCE
COMPANY,
Third-Party Plaintiff,

-against-

GLASSWALL, LLC, UGO COLOMBO, and
SARA JAYNE KENNEDY COLOMBO,
Third-Party Defendants.

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DECLARATION OF EVAN WEINTRAUB IN SUPPORT OF MOTION TO COMPEL

Evan Weintraub, Esq., pursuant to the provisions of 28 USC § 1746, declares the following under penalty of perjury:

1. I am a member of Wachtel Missry LLP, Counsel for Plaintiff Monadnock Construction, Inc. (“Monadnock” or “Plaintiff”) in this action. I am fully familiar with the facts and circumstances of this dispute and submit this declaration in support of Monadnock’s Motion to Compel Westchester Fire Insurance Company (“WFIC”), Ugo Colombo (“Ugo”), Sara Jayne Kennedy Colombo (“Sara”) and Tecnoglass, Inc. (“Tecnoglass”) to (a) produce documents responsive to the categories set forth in Exhibit A to the Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of a Premises in a Civil Action, served upon each of them; and (b) to make themselves available for deposition concerning the matters identified in the Subpoena to Testify at a Deposition in a Civil Action.

2. On March 15, 2018, Monadock served upon a registered agent of third-party Tecnoglass, and on March 21, 2018 Monadnock served upon each of WFIC, Ugo, and Sara a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action. Also on March 21, 2018, Monadnock served upon each of WFIC, Ugo, and Sara a Subpoena to Testify at a Deposition in a Civil Action, and a Subpoena to Produce Documents, Information or Objects or to Permit Inspection of a Premises in a Civil Action (collectively, the “Subpoenas”). Copies of the Subpoenas and affidavits of service thereof are attached as Exhibit A.

3. Attached as Exhibit B is Tecnoglass’ Form S-4 Registration Statement Under the Securities Act of 1933, as filed with the Securities and Exchange Commission on July 9, 2015, and which, on page 47, discloses Tecnoglass’ December 2014 acquisition of assets of Glasswall.

4. After receiving the Subpoenas, WFIC, Ugo and Sara objected to compliance arguing that the Stay forecloses discovery in aid of enforcing the Judgment.

5. Attached as Exhibit C is a true and correct copy of WFIC’s objections to compliance.

6. Attached as Exhibit D is a true and correct copy of Ugo’s objections to compliance.

7. Attached as Exhibit E is a true and correct copy of Sara’s objections to compliance.

8. Tecnoglass has not responded to the Subpoenas.

9. On April 16, 2018, counsel for Monadnock, WFIC, Ugo, and Sara participated in a telephone conference call to discuss the objections to the Subpoenas. Unfortunately the parties did not reach a resolution, hence this motion.

WHEREFORE, I respectfully request that Monadnock's motion be granted in its entirety and that the Court award Monadnock such other and further relief as may be just and proper.

Dated: New York, New York
May 11, 2018

/s/ Evan Weintraub
Evan Weintraub